

SEP 01 2009

Mr. Ross Parker
Regional Director, Gas Transmission Northwest
TransCanada
1400 SW Fifth Avenue
Suite 900
Portland, OR 97201

Re: CPF No. 5-2008-1004

Dear Mr. Parker:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that TransCanada needs to take to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5784]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

)	
In the Matter of)	
)	
TransCanada,)	CPF No. 5-2008-1004
)	
Respondent.)	
)	

FINAL ORDER

From June 25 to June 29, 2007, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an inspection of the facilities and records of the Gas Transmission Northwest system at the Sandpoint District in Idaho. This system is owned by TransCanada (Respondent) and consists, in part, of two parallel pipelines (A and B lines), totaling 232 miles of pipe, that run from the Canadian border through Idaho to the Washington border.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated January 11, 2008, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.463 and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also proposed finding that Respondent had committed certain probable violations of 49 C.F.R. Part 192 and warning Respondent to take appropriate corrective action to address them or be subject to future enforcement action.

Respondent responded to the Notice by letter dated January 18, 2008 (Response). Respondent did not contest the allegation of violation and provided information concerning the corrective actions it planned to take. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.463(a), which states:

§ 192.463 External corrosion control: Cathodic protection.

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of this part. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria.

The Notice alleged that Respondent violated § 192.463(a) by failing to provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of Part 192.¹ Specifically, the Notice alleged that TransCanda failed to provide adequate cathodic protection (CP) on its “B-Line” pipeline in 2005 and 2006. Respondent’s records of 2005 and 2006 CP surveys in the vicinity of Mile Post 14.1 on the B-Line showed negative voltages of 0.58 volt, 0.59 volt, and 0.46 volt, respectively, and that “off” readings at milepost 14.1 were less negative than depolarized readings during all three surveys. MP 14.1 is at the location of a cased pipeline crossing beneath railroad tracks. In its Response, TransCanda did not contest this allegation. Accordingly, I find that Respondent violated 49 C.F.R. § 192.463(a) by failing to provide a level of cathodic protection on its B-Line that complied with one or more of the applicable criteria contained in Appendix D of Part 192.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of § 192.463(a), pertaining to inadequate levels of CP in the vicinity of MP 14.1 on the B-Line.

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must:

1. Conduct an investigative excavation to inspect the condition of the pipe at MP 14.1.
2. Repair any pipeline damage discovered in the vicinity of MP 14.1.

¹ Appendix D requires CP levels to have either (1) a negative voltage of at least 0.85 volt with CP being interrupted, an “off” reading or (2) a minimum negative polarization voltage shift of 100 millivolts. 49 C.F.R. Part 192 app. D(A)(1) and (3). A typographical error in the Notice referred to Appendix A rather than Appendix D.

3. Take action to ensure that the level of CP meets one or more of the criteria in 49 C.F.R. Part 192, Appendix D, including CP levels measured in the depolarized state.
4. Complete the work described in paragraphs 1-3, above, within 30 days of receipt of the Final Order.
5. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Respondent must report costs in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies, and analyses, and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEMS

With respect to Items 2 and 3, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.605(a) (Notice Item 2) — Respondent's alleged failure to review and update its written manual of operations, maintenance and emergency procedures at least once each calendar year at intervals not to exceed 15 months; and

49 C.F.R. § 192.705(a) (Notice Item 3) — Respondent's alleged failure to maintain its pipeline right-of-way adequately cleared of vegetation such that its patrol activities could effectively observe leaks, construction activity, and other factors affecting safety and operation of the pipeline.

I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 192.605(a) and 49 C.F.R. § 192.705(a) have occurred and Respondent is advised to correct such conditions. If OPS finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any required corrective action, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued